

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STEVEN R. KINCAID,)

Plaintiff,)

v.)

Civil Action No. 04-11522-WGY

BANK OF AMERICA CORPORATION,)

Defendant.

AFFIDAVIT OF DEBORAH MARTIN NORCROSS

Deborah Martin Norcross states under the penalties of perjury:

1. I am an attorney admitted to practice in New Jersey, Pennsylvania, and New York. I am the sole member of the firm Law Offices of Deborah Martin Norcross LLC, 60 Marion Road West, Princeton, New Jersey 08540. I submit this affidavit in opposition to Defendant's Motion for Summary Judgment in the above-entitled action.

2. The plaintiff, Steven R. Kincaid, retained me to represent him in his dealings with his then-employer, the defendant Bank of America (the "Bank"), in April 2003. After the Bank terminated Mr. Kincaid's employment on June 13, 2003, I prepared and submitted to the Equal Employment Opportunity Commission ("EEOC") in Charlotte, North Carolina on Mr. Kincaid's behalf a Charge against the Bank of unlawful

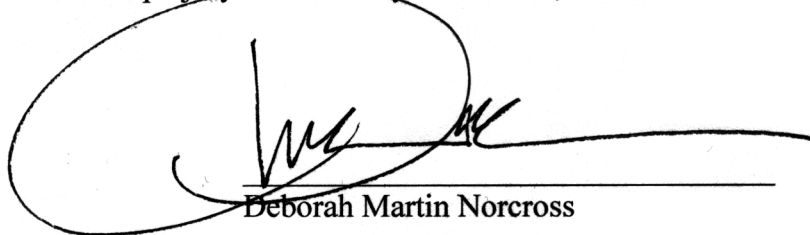
age discrimination and retaliation. I transmitted this Charge to the EEOC, with a copy to the Bank, on July 24, 2003.

3. I received no notice, and had no knowledge, of any disposition of the foregoing Charge by the EEOC until April 8, 2004. The only notice I did receive was provided to me by my client on that date.

4. When I reviewed the Notice of Dismissal and Notice of Right to Sue that Mr. Kincaid received from the EEOC, saw that the EEOC's covering letter had a "cc" line purporting to indicate that the EEOC had sent a copy of its letter and notice to me directly. In fact, however, I never received a copy of the EEOC's letter and notice directly from the EEOC either before I heard from Mr. Kincaid on April 8, 2004, or after.

5. I was first admitted to the Bar in 1981 and have specialized in employment law for the entire 24 years I have been in practice. I am well aware of the requirement that an ADEA lawsuit must be filed within 90 days of receipt of the EEOC's Notice of Right to Sue, and of the consequent need to note with care the date such a Notice is first received. I was careful to note that date in this case and am confident of the accuracy of what I have stated above.

Signed under the penalties of perjury this 31st day of October, 2005.



Deborah Martin Norcross